



ITG News

Keeping First Nations Informed



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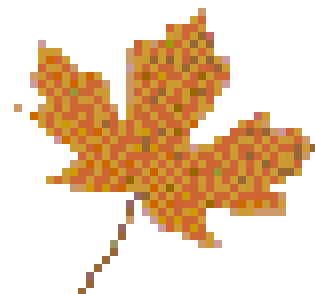
Message From The Director

As many of you are aware, we have been working on the development of an IRS/Tribal Consultation Policy for the past 18 months. We have followed a structured process that was suggested by the Advisory Committee to the Tax Exempt Government Entities Commissioner. That process included a series of 12 listening meetings and a comment period on the discussions that took place at those meetings.

I am pleased to announce that we have taken another step forward in the evolution of the policy, through the formation of a volunteer drafting group that included twelve tribal representatives. This group met in July and completed an outline of a draft policy that was heavily reliant on the feedback from the previous listening meetings. The outline was posted to our web site at www.irs.gov/tribes, along with a listing of the drafting committee members. Feedback was solicited, which could be provided to any member.

The drafting group will be meeting in late October to finalize the language in the draft policy. We hope to have the TEGE Commissioner meet with the group at that time, after which the policy will be subjected to a formal review.

While we have been very deliberate in the creation of the IRS/Tribal Consultation Policy, it is our hope that the steps we have taken will lead to a policy that works well for everyone, and enables maximum dialogue to occur wherever possible. If you have any questions or suggestions, please feel free to contact any of the members of the drafting group. Their names and contact information are listed on page 2 of this newsletter.



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Magnetic Media Specifications for Title 31 Reports Are Updated

The Financial Crimes Enforcement Network has updated the Magnetic Media Filing specifications for the various forms required under Title 31. This includes FinCEN Forms 102 and 103, which are the common forms filed by tribal casinos.

The requirements for magnetic media filing of the Currency Transaction Report by Casinos (FinCEN Form 103) are contained in a 46 page document that can be accessed at http://www.fincen.gov/magmed_ctr.pdf. The specifications for Suspicious Activity Reports (SARCs) are reflected in a 29 page document that can be accessed at http://www.fincen.gov/magmed_sarc.pdf.

The specification changes are effective February 1, 2005.

Abusive Schemes Continues to be an Area of Focus

The office of Indian Tribal Governments continues to focus on combating abusive schemes that are surfacing in Indian country. Our intent is to take actions that will protect tribal assets and minimize financial risk to the tribes and tribal members. Many schemes occur without the direct knowledge of the tribe, and/or without an understanding of the consequences by the tribe. They are a major concern for both the Service and Tribal governments who are struggling to protect their sovereignty and fledging enterprises, and maintain the support of Congress and the general public. These concerns are magnified by increasing attempts by promoters to use the tax and legal status of tribes to shelter transactions from taxation and oversight.

Risks can arise when a promoter gains a foothold within a tribal enterprise and convinces a tribe to implement programs that often sound “too good to be true”. Recent examples we have uncovered include improper deferrals of per capita distributions to members, improper practices involving employee leasing entities, and embezzlement of tribal funds.

We are actively seeking to partner with tribes to address these issues. Our web site was recently updated to include a special section on abusive schemes, along with a link for reporting them via e-mail or in writing. We have also included brief descriptions of the specific areas currently under review, and we will be expanding that section in the near future.

We appreciate the assistance of several tribes and tribal organizations that have been supporting this effort, and we welcome others to join with us to ensure that we can jointly address these problems as quickly as possible. Specific questions or concerns relating to abusive schemes can be directed to Ken Voght at (716) 686-4860, or via e-mail at tege.itg.schemes@irs.gov.



The IRS TIN Matching Process

The following overview provides an explanation on the taxpayer identification number matching process and the development of name controls. Understanding this process could help decrease the filing of incorrect information returns.

The information returns you file must include a correct name and taxpayer identification number (TIN) combination to allow us to match the information reported against the income included on the payee's income tax return. We check whether a name/TIN combination is correct by matching it against a file containing all social security numbers (SSNs) issued by the Social Security Administration and against a file containing all employer identification numbers (EINs) issued by the IRS. Then we compare the name control on the payee document (if provided) to the name control on file. If a name control is not provided or is provided incorrectly, we develop it from the name(s) provided on the first two name lines of the information return. If we can match a developed name control to the name control in our records, we consider it to be correct. If no match is found using this process, we consider your name/TIN combination to be incorrect.

Name Controls

A name control consists of up to four characters. To help ensure that the name/TIN combination for an account matches the name/TIN combination on SSA or IRS files, use the following information when you open an account for a payee.

Individuals

We develop a name control for an individual from the last name on the return. For example:

Ralph **Teak**

Dorothy **Willow**

Joe **McCedar**

For an individual that has a hyphenated last name, we develop the name control from the first of the two last names. For example:

Brandy **Cedar**-Hawthorn Victoria **Windsor**-Maple

For joint names, regardless of whether the payees use the same or different last names, we develop the name control from the primary payee's last name. For example:

Joseph **Ash** & Linda Birch Edward & Joan **Maple**

(cont'd on p5)



(cont'd from p4)

Reminder: If a payee has changed his or her last name, for instance, due to marriage, he or she **SHOULD inform the Social Security Administration of the name change.**

HINT: On name line one of the Form 1099, a payor should enter the payee's first name and new last name (if the change has been made with SSA), or the payee's first name, former last name, and new last name (if the change has not been made with SSA).

Sole Proprietors

We generally develop the name control for a sole proprietor, who may have both a SSN and an EIN, from the individual's last name (not the business name) on the information return. For example:

Mark & Jane Hemlock
The Sunshine Café

Karen Birch
Ace Computer Co.

HINT: Sole proprietors should enter their business, trade, or "doing business as" name on the second name line of the information return.

Other Organizations

We develop the name control for other organizations from the entity's name on the original Form SS-4 (which was used to apply for the EIN). For example:

St. Bernard's Methodist Church
Building Fund

ABC Company
Main Street Store

Knowing how name controls are developed should be helpful in the filing of correct information returns. If you have any questions, contact your ITG Specialist.

???Questions???

Contact your ITG Specialist, or our toll-free call site at 877-829-5500



Why is it so important that I pay my workers as Employees?

Many times, we hear people say, "George is a contractor, and he pays all his guys cash on a daily basis. This means he can get people as he needs them. He doesn't have to pay any Social Security or Workman's Compensation Insurance, which means he makes a lot more money. He can be much more competitive when bidding jobs, and is more likely to still be around when others go out of business."

Seldom do we hear the rest of the story. Those people who work for George are at great risk if they are injured or disabled on the job. They have no record showing how much money they made, thus they have no visible means of support if they wish to obtain credit for a car or home. They are not paying into Social Security, thus are not earning any credit toward FICA insurance or retirement benefits including Medicare or Medicaid. They generally are not paid competitively for their work either.

George is in violation of the law in that he is not paying his employees properly. He has no insurance, and he is not withholding tax and FICA from the wages he pays. Most likely, George is in violation of state Wage and Hour Division and IRS requirements for employers. Federal Laws under Section 3100 – 3500 of the Internal Revenue Code require George treat his workers as employees, withholding FICA and Federal Income Taxes from the Employee's wages and paying those amounts over to IRS in the form of Federal Tax Deposits. George could be fined up to 100% of what he owes in addition to possible federal taxes and penalties.

Employees who receive cash could also be charged with failing to file an income tax return or failure to report the income George gave them if they are not properly reporting these items on their returns. These folks could also be charged with tax evasion for not reporting the full amount received. Both George and his employees could face up to 10 years in prison or \$10,000 fine or both. George and his employees also may be in violation of the contract provisions if they are contracted by the Tribe or a Federal Agency. Most governmental contracts include a provision that all Federal and State Taxes owed by the Contractor will be paid accurately and timely.

Finally, we are most concerned about the individual and family of the worker. People who operate as discussed above are predatory employers who care little for anyone but themselves. This hurts everyone else. They get away with creating an underground economy that victimizes their own workers, their competitors, the general contractors, Governmental Entities such as the Tribal Business Offices. The bottom line is that we have to look after our people. Jobs create opportunities which create more opportunities, and that is why we need to treat our workers as employees.

If you would like to learn more about this, please call your local Indian Tribal Governments Specialist.

To add your name or e-mail address to our mailing list, please contact us via e-mail at Jeff.R.Clairmont@irs.gov, or call Jeff Clairmont at (406)752-6149 ext 24

Federal Tax Calendar for Fourth Quarter 2004

October 2004

SUN	MON	TUE	WED	THU	FRI	SAT
					1	2
3	4	5	6 * Make a deposit for 9/29-10/1	7	8 * Make a deposit for 10/2-10/5	9
10	11	12 Employees report September tip income to employers if greater than \$20	13	14 * Make a deposit for 10/6-10/8	15 * Make a deposit for 10/9-10/12 ** Make a deposit for September if under the monthly deposit rule	16
17	18	19	20 * Make a deposit for 10/13-10/15	21	22 * Make a deposit for 10/16-10/19	23
24	25	26	27 * Make a deposit for 10/20-10/22	28	29 * Make a deposit for 10/23-10/26	30
31						

November 2004

SUN	MON	TUE	WED	THU	FRI	SAT
	1 Deposit Federal Un- employment Tax through September if greater than \$100	2	3 * Make a deposit for 10/27-10/29	4	5 * Make a deposit for 10/30-11/2	6
7	8	9	10 * Make a deposit for 11/3-11/5 Employees report October tip income to employers if greater than \$20	11	12	13
14	15 * Make a deposit for 11/6-11/9 ** Make a deposit for October if under the monthly deposit rule	16	17 * Make a deposit for 11/10-11/12	18	19 * Make a deposit for 11/13-11/16	20
21	22	23	24 * Make a deposit for 11/17-11/19	25	26	27
28	29 * Make a deposit for 11/20-11/23	30				

*= Make a Payroll Deposit if you are under the semi-weekly deposit rule. **
= Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS are due one day
prior to the dates listed.



December 2004

SUN	MON	TUE	WED	THU	FRI	SAT
			1 * Make a deposit for 11/24-11/26	2	3 * Make a deposit for 11/27-11/30	4
5	6	7	8 * Make a deposit for 12/1-12/3	9	10 * Make a deposit for 12/4-12/7 Employees report November tip income to employers if greater than \$20	11
12	13	14	15 * Make a deposit for 12/8-12/10 ** Make a deposit for November if under the monthly deposit rule	16	17 * Make a deposit for 12/11-12/14	18
19	20	21	22 * Make a deposit for 12/15-12/17	23	24	25
26	27 * Make a deposit for 12/18-12/21	28	29 * Make a deposit for 12/22-12/24	30	31	

*= Make a Payroll Deposit if you are under the semi-weekly deposit rule.

**= Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS are due one day prior to the dates listed.

Return Filing Dates

November 1st

File Form 941 for the third quarter of 2004 (if tax is deposited in full and on time, file by November 10th)

File Form 730 and pay the tax on applicable wagers accepted during September

November 30th

File Form 730 and pay the tax on applicable wagers accepted during October

January 3rd, 2005

File Form 730 and pay the tax on applicable wagers accepted during November